

**U.S. DEPARTMENT OF ENERGY
PROCEDURES TO FACILITATE THE PROVISION OF REASONABLE
ACCOMMODATION
FOR INDIVIDUALS WITH DISABILITIES**

Subject: DOE Procedures to Facilitate the Provision of Reasonable Accommodation Pursuant to Executive Order 13164.

Purpose: These procedures implement Executive Order 13164, which requires federal agencies to establish effective written procedures for processing requests for reasonable accommodation.

Effective Date: Immediately.

Expiration Date: Until rescinded or superseded.

Originator: Office of Civil Rights and Diversity, Department of Energy.

Instructions: Provide copies to all employees and applicants for DOE employment.

Date: _____

Theresa Alvillar-Speake
Director
Office of Economic Impact
and Diversity

Signed by Theresa Alvillar-Speake on January 28, 2002

Approved by the EEOC on October 16, 2002

U.S. DEPARTMENT OF ENERGY

PROCEDURES TO FACILITATE THE PROVISION OF REASONABLE ACCOMMODATION FOR INDIVIDUALS WITH DISABILITIES

TABLE OF CONTENTS

SECTION I.	INTRODUCTION	1
SECTION II.		
A.	TERMINOLOGY	2
B.	RIGHTS AND RESPONSIBILITIES UNDER THE REHABILITATION ACT OF 1973	4
SECTION III.	PROCEDURES FOR REQUESTING REASONABLE ACCOMMODATION	
A.	STEP 1: INITIATING THE REASONABLE ACCOMMODATION PROCESS	5
B.	STEP 2: PROCESSING REQUESTS FOR REASONABLE ACCOMMODATION	6
C.	STEP 3: TIME LIMITATIONS	10
D.	STEP 4: MEDICAL INFORMATION	11
SECTION IV.	GRANTING REASONABLE ACCOMMODATION REQUESTS	15
SECTION V.	DENIAL OF REASONABLE ACCOMMODATION REQUESTS	16
SECTION VI.	OTHER CONSIDERATIONS	
A.	REASSIGNMENT	17
B.	UNDUE HARDSHIP	19
C.	INFORMAL DISPUTE RESOLUTION	19
D.	OTHER COMPLAINT PROCESSES	20
E.	INFORMATION TRACKING	20
F.	REPORTING REQUIREMENTS	22
SECTION VII.	APPENDIX: REASONABLE ACCOMMODATION RESOURCES	22

SECTION I. INTRODUCTION

Pursuant to Executive Order 13164, the Department of Energy (hereinafter referred to as the "Department"), is charged with establishing written procedures for the facilitation of reasonable accommodation for: (1) individuals with disabilities in the application process for employment with the Department; (2) Department employees with disabilities to perform the essential functions of a position; and (3) Department employees with disabilities to enjoy benefits and privileges of employment equal to those enjoyed by employees without disabilities.

Reasonable accommodation involves the removal of workplace barriers, which may be physical obstacles such as inaccessible facilities, provision of adaptive equipment, or it may be rules and procedures governing when, where and how work is performed.

The Rehabilitation Act of 1973 (29 U.S.C. 701, *et seq.*), as amended, requires federal agencies to provide reasonable accommodation to a qualified employee or applicant with disabilities so that he/she can become a productive member of the workforce. The Act requires the agencies to look for new and innovative ways to alter, restructure or change the ways of doing a job in order to allow a qualified person with a disability to perform the essential functions of a particular job.

While the Rehabilitation Act covers employees in the federal workplace, Title I of the Americans with Disabilities Act of 1990 (the ADA) expands disability accommodation issues to include all civilians. The ADA defines disability related terms in detail and serves as an accepted resource for accommodation policy compliance.

This directive will govern three categories of reasonable accommodations:

- (a) modifications or adjustments to a job application process to permit an individual with a disability to be considered for employment;
- (b) modifications or adjustments necessary to enable a qualified individual with a disability to perform the essential functions of the job; and
- (c) modifications or adjustments that enable employees with disabilities to enjoy equal benefits and privileges of employment.

These procedures set forth instructions for implementing each of the procedural requirements of Executive Order 13164.

SECTION II.

A. TERMINOLOGY

1. **Reasonable Accommodation.** Reasonable accommodation is a change in the work environment or in the application process that enables an individual with a disability to experience equal employment opportunities. According to the Equal Employment Opportunity Commission (“EEOC”), the term “reasonable” has no independent definition. To be reasonable, the accommodation must be effective.

Any request for accommodation that would require the exemption of requisite skill, experience, education, and other job-related requirements of the position, or create a job where none exists, reallocate or eliminate essential job functions, or otherwise substantially change the fundamental nature of a job, will be deemed unreasonable by the Department and such a request will be denied.

2. **Qualified Individual.** An individual with a disability who, with or without reasonable accommodation, can perform the essential functions of the employment position that such individual holds or desires.
3. **Disability.** In order for an individual to be entitled to a reasonable accommodation, he/she must have a “disability” pursuant to the ADA definition. An individual has a disability for purposes of the ADA if he/she: (1) has a physical or mental impairment that substantially limits a major life activity; (2) has a record of such an impairment; or (3) is regarded as having such an impairment. However, if the individual has little or no difficulty performing any major life activity because she or he uses a mitigating measure, then that person will not meet the ADA’s definition of disability.
4. **Impairment.** An impairment is a physiological disorder affecting one or more of a number of body systems, or a mental or psychological disorder.

Examples of major life activities include caring for oneself, performing manual tasks, walking, hearing, seeing, sitting, speaking, breathing, learning, working, standing, lifting, and mental and emotional processes such as thinking. Generally, a major life activity is something of fundamental

significance, and not simply an activity important to a particular individual. It does not include activities such as sports or recreation.

An impairment is substantially limiting if it prohibits or significantly restricts an individual's ability to perform a major life activity as compared to the ability of the average person in the general population to perform the same activity. Not all medical conditions are "substantially limiting". Generally, a broken bone, sprained joint, concussion, appendicitis, and influenza are not "substantially limiting" because these conditions will heal within a reasonable time. Similarly, a normal pregnancy is not "substantially limiting" for purposes of the ADA, and therefore does not constitute a disability.

5. **Mitigating measures.** Mitigating measures are compensating measures used by an individual to lessen, eliminate, partially or fully control, the limitations or symptoms caused by an impairment. Mitigating measures may include the use of devices such as prostheses, hearing aids, or glasses.
6. **Benefits and privileges of employment.** Benefits and privileges of employment include, but are not limited to, DOE-sponsored: (1) training; (2) services such as employee assistance programs (EAP's), credit unions, cafeterias, lounges, gymnasiums, auditoriums, or transportation; and (3) parties or social functions.
7. **Undue hardship.** Undue hardship means significant difficulty or expense. It addresses the limitations on the requirement that the Department provide a reasonable accommodation in a specific circumstance. It encompasses accommodations that are financially burdensome on the Department as a whole, and is not limited to components' organizational budgets. It encompasses accommodations that are unduly extensive or disruptive, or that fundamentally alter the nature or operation of the business.
8. **Reasonable documentation.** In cases where an individual's disability is not obvious, the Department may require only the documentation that is needed to establish that a person has a qualified disability, and that the disability necessitates a reasonable accommodation. Accordingly, in most situations, a person's complete medical record may not be requested.

Appropriate healthcare or rehabilitation professionals such as doctors, psychiatrists, psychologists, nurses, physical therapists, occupational therapists, speech therapists, vocational rehabilitation specialists, and licensed mental health professionals, may provide documentation about the disability and the functional limitations it imposes.

9. **Essential functions of employment.** The essential functions of a job are those job duties that are so fundamental to the position that the individual cannot do the job without being able to perform them. A function may be essential if, among other things, the position exists specifically to perform that function, there are a limited number of other employees who could perform the function if it were assigned to them, or the function is specialized and the incumbent is hired based on his or her ability to perform it.

B. RIGHTS AND RESPONSIBILITIES UNDER THE REHABILITATION ACT OF 1973

1. The Rehabilitation Act confers upon individuals a number of rights and responsibilities. Employees and applicants for employment have the following **rights**:
 - (a) To have requests for reasonable accommodation handled in a prompt, fair, and efficient manner.
 - (b) To be given substantial leeway in the ways requests for reasonable accommodation may be made.
 - (c) To have medical records and information kept confidential in accordance with applicable law and regulations.
 - (d) To file equal employment opportunity complaints.
 - (e) To be provided with a written explanation for any denial of reasonable accommodation.

2. Employees and applicants have the following **responsibilities**:
 - (a) To make known to relevant persons their need for reasonable accommodation.
 - (b) To provide reasonable medical documentation to support a request for reasonable accommodation, where one's disability is not obvious, and the agency has requested documentation.

SECTION III. PROCEDURES FOR REQUESTING REASONABLE ACCOMMODATION

A. STEP 1: INITIATING THE REASONABLE ACCOMMODATION PROCESS

1. **Initiating a request for reasonable accommodation.** A **DOE employee** or his/her representative must inform his/her supervisor, supervisor or manager in the immediate chain of command, EEO officer, office director or headquarter's Disability Program Coordinator (or equivalent in the field) that an adjustment or change at work is needed to accommodate a disability. This request may be made in writing or orally. Any mode of communication may be used, such as e-mail, a conversation, a memorandum, or a letter.
2. **An applicant** for employment with the Department may also request reasonable accommodation in writing or orally, and may do so with any Department employee that the applicant has had contact with in connection with the employment application process.
3. **A family member, friend, health professional or other representative** may request a reasonable accommodation on behalf of an individual with a disability. An example of such a request occurs when a family member telephones an employee's supervisor to inform him or her of a medical emergency necessitating hospitalization and time off from work. A supervisor should verify with the employee, at the earliest possible date, the employee's desire for reasonable accommodation. Employees should consult with the Office of Human Resources Management for guidance on the applicable procedures governing time and attendance.

4. **Availability.** Reasonable accommodation is available to all qualified applicants or Department employees with disabilities, whether they are full-time, part-time or probationary.
5. **When request is made.** An applicant or employee may request reasonable accommodation at any time during the application process or during the period of employment.
6. **Particular language not required.** An individual is not required to use the phrase “reasonable accommodation” when making a request, nor is there a requirement to reference the Rehabilitation Act.
7. **To whom request made.** A request for reasonable accommodation may be made to the employee’s supervisor or manager, another supervisor or manager in the immediate chain of command, an EEO officer, the office director, or the Disability Program Coordinator or field equivalent. In the case of an applicant for employment, the request may be made to any Department employee that is involved in processing the employment application.
8. **Notification (Headquarters).** In all headquarters cases, the director of the employee’s office and the Headquarters Disability Program Coordinator (MA-353) shall be notified that a request for reasonable accommodation has been made by forwarding a copy of any written request or by documenting a request made orally.
9. **Notification (Field and Operations Offices).** In all cases in the field and operations offices, notification of a request for reasonable accommodation shall be made to the Manager of the field or operations office, and to the any other office designated by the Manager to receive such information.

B. STEP 2: PROCESSING REQUESTS FOR REASONABLE ACCOMMODATION

1. **Referral to authorized official.** A request for reasonable accommodation must be transmitted to the individual authorized to approve or deny the request (the decision maker) **within five (5) business days** from the date an individual makes known his or her request for reasonable accommodation. In the case of an applicant for employment,

the authorized official is the Director of the Office of Human Resources Management or his/or designee responsible for the recruitment or selection process.

2. **Informal interactive process.** An individual's oral or written request starts the reasonable accommodation process. Thereafter, the supervisor or manager shall engage in an informal process to clarify and determine the employee's needs and appropriate remedy. An employee may be asked relevant questions pertaining to the disability and the type of reasonable accommodation needed.

When the disability and the type of accommodation required is obvious, there is little need to engage in lengthy discussion. In other cases, questions concerning the nature of the disability and the individual's functional limitations may need to be asked in order to identify an effective accommodation. The employee does not need to specify the precise accommodation needed, but does need to describe the problems he or she is experiencing as a result of workplace barriers. Furthermore, the employee's assessment of the effectiveness of an accommodation must be given due deference.

The interactive process may require that the decision maker and employee consult and work with a number of people, including medical and safety personnel. Where the employee and the supervisor are unfamiliar with the possible accommodations, they should consult the Headquarters Disability Program Coordinator for referral to public and private resources. Field offices should contact the office designated by the Manager to handle such referrals.

3. **Request for reasonable documentation.** The employee or applicant can be required to provide appropriate medical information related to the disability at issue where the disability and or the need for accommodation is not obvious and the individual has made known his or her request for accommodation. The supervisor may inquire about the individual's functional limitations in order to identify an effective accommodation.

Authorized officials may not ask for documentation that is unrelated to determining the existence of a disability and the necessity for an accommodation. Accordingly, in most cases,

the employee may not be asked to provide his or her complete medical record, which will likely contain information unrelated to the disability at issue.

The ADA prohibits employers from making disability related inquiries and requests for medical examinations prior to offering employment to the applicant. After an applicant has been given a conditional job offer, the Department may make inquiries, as long as it does so for all entering employees in the same job category. After employment begins, disability related inquiries may be made only if they are job related and consistent with business necessity.

Employees are required to provide documentation about the disability and the functional limitations from an appropriate health care or rehabilitation professional. Appropriate professionals include, but are not limited to, doctors, psychologists, nurses, physical therapists, occupational therapists, speech therapists, vocational rehabilitation specialists and licensed mental health professionals.

The employee may be asked to sign a limited release allowing the Department to submit a list of specific questions to the health care professional.

If an individual's disability or need for accommodation is not obvious, and he or she refuses to provide the requested reasonable documentation, then the individual's request for a reasonable accommodation may be denied.

4. **Authority.** Any direct supervisor or manager is authorized to evaluate and approve a request for reasonable accommodation, absent undue hardship to the operation of the office, or any of the exceptions mentioned below.

- (a) **Headquarters**

- Certain types of requests may only be handled by the employee's office director or manager, and others may only be referred to the Office of Human Resources Management for action.

- 1) **The employee's office director** is authorized to approve or deny requests for:

- (i) personnel action (except reassignments);
- (ii) Rehabilitation adaptive equipment;
- (iii) specially designed furniture;
- (iv) information technology;
- (v) communications equipment; and
- (vi) materials in alternative formats, such as braille and large print.

2) The Office of Human Resources

Management is authorized to approve or deny requests made by employees for:

- (i) reassignment to another position;
- (ii) temporary reader, personal assistant, or as-needed sign language interpreter services; and
- (iii) other staff assistant when current staff are unable to accommodate.

3) The Office of Human Resources

Management Director, supervisor, or authorized designee responsible for the recruitment and selection of the position being applied for by the applicant is authorized to approve or deny requests made by applicants for employment.

(b) Field Offices

As in the case of requests for reasonable accommodation at Headquarters, a request may be made to a direct line supervisor or manager in the immediate chain of command, EEO officer, office director or equivalent of the Headquarter's Disability Program Coordinator. Supervisors and managers are authorized to evaluate and approve requests for reasonable accommodation under similar

circumstances and conditions as Headquarters' supervisory personnel. However, because organizational structure may vary from field office to field office, the field office Manager may determine, consistent with the requirements of this directive, the approval authority necessary to process a request for reasonable accommodation.

- (c) In certain instances, authorized personnel will be required to consult with one another, or with the General Services Administration, the Office of the Chief Financial Officer, the Office of Information Resources Management, or the landlords of leased facilities, in order to facilitate the accommodation.

C. STEP 3: TIME LIMITATIONS

- 1. **20 days.** Absent extenuating circumstances, a reasonable accommodation must be provided or the request must be denied by the authorized official on or before the 20th business day from the date the request is made.

Department policy requires that requests be processed in a manner that imposes the fewest burdens on individuals requesting accommodation, and in the most expeditious manner possible. Therefore, a decision on the request should be made at the lowest possible supervisory level allowed by these procedures.

When a request for a simple accommodation is made, it should be processed immediately. An example of such a request is a request by a diabetic employee to take bathroom or snack breaks to accommodate a medical condition. This accommodation can be granted immediately by a first-line supervisor.

- 2. **Exceptions to 20-day time limit.**

- (a) **Expedited processing.** Expedited processing may be required in other circumstances, such as when reasonable accommodation is needed to enable a person to apply for employment with the Department or when an agency activity is scheduled to occur within a short time.

(b) Extenuating circumstances. Extenuating circumstances are factors that could not have been reasonably anticipated or avoided in advance of the request for the reasonable accommodation. A delay in forwarding medical documentation by a health professional to the employee's supervisor is an example of an extenuating circumstance, as is a delay in the shipment of specially ordered equipment needed to grant a reasonable accommodation.

3. Notification. The authorizing official must notify the individual seeking reasonable accommodation of any reason for delay in the consideration of the accommodation or in the provision of the accommodation, and must consider taking temporary measures to assist the person needing accommodation, if possible. When possible, the official should advise the individual when the accommodation request can reasonably be expected to be processed.

4. Time may not be extended. The time to process a request for reasonable accommodation may not be extended beyond the 20 day time limit merely because a written request by the employee has not been received.

D. STEP 4: MEDICAL INFORMATION

When an employee requests a reasonable accommodation he/she must provide the Department with appropriate medical information that relates to his or her impairment, where the disability or the employee's need for accommodation is not visible or otherwise obvious, and it has been requested by the Department. Likewise, the Department may not request medical information when the disability or need for accommodation is obvious. Such an obvious disability could be impaired vision, or an inability to walk or speak. Examples of disabilities that are not obvious are: mental illness, mental retardation, learning disabilities, epilepsy, cancer, arthritis, and asthma.

The Department may request additional medical information from the employee if the information submitted by the employee does not clearly explain the nature of the disability or the need for reasonable accommodation, or if needed to clarify how the requested accommodation will assist the employee in the performance of essential function of the job, or to enjoy the benefits and privileges of the workplace. The Department is not entitled to access the employee's entire medical record. Only medical records related to the disability and the need for accommodation may be requested.

If the employee has already provided the Department with sufficient information to document the existence of the disability and his or her functional limitations, the Department may not request that same medical information.

1. Requests for medical information.

(Headquarters) If the supervisor or department manager determines that medical information is required to process a request for reasonable accommodation, the supervisor or manager shall contact the Headquarters Disability Program Coordinator. The Disability Program Coordinator will then process the request for medical information.

(Field and Operations Offices) The Manager of each field and operations office shall designate for purposes of implementing the requirements of these procedures, an office which is the functional equivalent of the Headquarters Office of Human Resources Management. Supervisors and department managers shall contact the designated office when medical information is deemed to be necessary. That designated office shall be responsible for processing the request for medical information.

2. Required documentation. The Disability Program Coordinator and the field and operations offices' designee may require, in a case of a disability that is not obvious, that the employee submit documentation that:

- (a)** describes the nature, severity and duration of the individual's impairment;
- (b)** describes the activity or activities that the impairment limits, and the extent of the limitations on the employees ability to perform them; and
- (c)** substantiates why the accommodation requested is needed.

The failure to provide appropriate medical information or documentation, or to cooperate in the Department's efforts to obtain such documentation, can result in a denial of reasonable accommodation.

In addition to the required documentation, the employee can be required to provide, in the form of a statement, information regarding his or her disability and the need for reasonable accommodation. The Disability Coordinator may also pose questions to the employee that are intended to elicit information about the disability. However, matters unrelated to the disability at issue are not permissible.

Where the Department is entitled to request medical information under the standards set forth above, the Department is entitled to have that information reviewed by its own medical expert at its own expense.

3. Documentation will be deemed insufficient if:

- (a)** it does not specify the existence of a disability and explain the need for reasonable accommodation;
- (b)** the health care professional does not have the expertise to give an opinion about the individual's medical condition and the limitations imposed by it;
- (c)** the information does not specify the functional limitations due to the disability; or
- (d)** other factors indicate that the information provided is not credible or is fraudulent.

4. Examination by DOE health care professional. If the individual requesting reasonable accommodation provides insufficient documentation from the treating physician or other health care professional to substantiate his/her disability and need for reasonable accommodation, the Director, Employee and Labor Relations Division, or the equivalent designated office in the field and operations offices, may require the individual to be seen by an appropriate health care professional of the Department's choice. However, the Director must first explain why the documentation is insufficient and allow the individual to provide the missing information in a timely manner, or, with the individual's consent, the Employee and Labor Relations Division, or equivalent field office, should consult with the individual's physician or health care professional.

If the individual is required to see a health care professional of the Department's choosing, then the Department shall pay all costs associated with the visit.

Any medical examination conducted by the Department's health care professional must be job-related and consistent with business necessity. Therefore, the examination must be limited to determining the existence of a qualified disability and the functional limitations that require reasonable accommodation.

The failure to submit to such an appropriate medical examination can result in the denial of reasonable accommodation.

5. **Confidentiality.** Medical information obtained in connection with the reasonable accommodation process must be kept confidential, regardless of the origin of that information.
6. **Maintaining separate files.** All medical information received by the Department must be maintained in a file separate and apart from the individual's official personnel file. All records are to be maintained in accordance with the Privacy Act.
7. **Custodian of files.** The Employee and Labor Relations Division, or the equivalent designated field and operations office, will maintain custody of all records created or obtained during the processing of a reasonable accommodation request, including medical records. This office will be responsible for responding to all requests for disclosure of information related to these records.

The contents of the medical file may only be disclosed as follows:

- (a) supervisors and managers who need to know may be told about necessary restrictions on the work or duties of the employee and about the necessary accommodations;
- (b) first aid and safety personnel may be told if the disability might require emergency treatment;
- (c) government officials may be given information necessary to investigate the agency's

compliance with the Rehabilitation Act;

- (d) EEO officials may be given information necessary for maintaining records and evaluations of the Department's performance regarding accommodation requests; and
- (e) in certain circumstances Workmen's Compensation offices or insurance carriers may be provided with medical information.
See 29 C.F.R. 1630.14 (b), 1630.16 (f).

If medical information is disclosed in any of the circumstances above, the Department must inform the persons receiving the information of the requirement of confidentiality.

SECTION IV. GRANTING REASONABLE ACCOMMODATION REQUESTS

The Department may provide any form of reasonable accommodation which is effective. Alternative suggestions for reasonable accommodation should be discussed with the disabled individual; however, the Department is not required to provide the specific accommodation requested by the individual with a disability. While due consideration should be given to the preference of the disabled individual, the Department may select a less expensive or less burdensome accommodation, and is not required to demonstrate that it is an undue hardship to provide the specific accommodation requested by the individual.

If a reasonable accommodation is selected that differs from the requested accommodation, then the decision maker shall advise the requestor why the selected accommodation is effective.

Once the request for reasonable accommodation has been processed, the individual should be immediately notified of the decision. Notification of the decision to grant the accommodation may be made by the immediate supervisor, any supervisor in the chain of command, the office director, the field office manager or the Disability Program Coordinator. In the case of applicants for employment, the decision to grant or deny the request for reasonable accommodation will be made by the Office of Human Resources Management Director, supervisor, or authorized designee responsible for the recruitment and selection of the position applied for by the applicant. The decision to grant the accommodation can be transmitted orally or in writing to the requestor.

SECTION V.

DENIAL OF REASONABLE ACCOMMODATION REQUESTS

If the Department denies an individual's request for reasonable accommodation, then the individual must be notified in writing of the denial and the reasons for the denial within the time limits prescribed in Section III, Part C, 1,2,3, and 4 of these procedures.

- 1. Contents of notification.** The written notification of denial for reasonable accommodation must also include the following information:
 - (a)** the name, title, and office of the decision maker; the decision maker may be any supervisor in the chain of command, office director, field office manager, or the Disability Program Coordinator;
 - (b)** advise the individual of his or her right to file an EEO complaint or engage in the informal dispute resolution procedures of the Department by contacting an EEO counselor within 45 days from the date of receipt of the written notice of denial;
 - (c)** advise the individual that he or she may have rights under the Merit Systems Protection Board, and to initiate an action within 30 days of an appealable adverse action, and,
 - (d)** advise of the right to file a grievance with the collective bargaining unit, and to do so in accordance with the provisions of the collective bargaining agreement.
- 2. Request for reconsideration.** If denied a request for reasonable accommodation, an individual may, within five (5) business days of notification of the denial, request reconsideration of the decision. The request for reconsideration must be in writing, and must be directed to the decision maker. The request should include any additional information or supporting documentation not originally considered by the decision maker.

A request for reconsideration does not affect the EEO complaint processing time limits on filing a complaint, or the procedural time limits imposed by informal dispute resolution processes or the Merit System Protection Board.

3. **Time to respond.** Any decision maker presented with a request for reconsideration of a denial of reasonable accommodation shall consider the request and respond, in writing, within five (5) business days of the request for reconsideration. The time limit may be extended in extenuating circumstances.
4. **Further requests for reconsideration.** If the decision maker does not reverse the denial of reasonable accommodation request, the applicant or employee may file a written request for reconsideration within ten (10) business days of the written denial with the Assistant Secretary, Deputy Assistant Secretary, field or operations Manager. The Assistant Secretary, Deputy or Manager shall consider the request and respond, in writing, within ten (10) business days of the request for reconsideration. The time limit may be extended in extenuating circumstances.

SECTION VI. OTHER CONSIDERATIONS

A. REASSIGNMENT

1. Criteria

Reassignment will be considered as a form of reasonable accommodation only if the Department determines that no other reasonable accommodation will permit the employee with a disability to perform the essential functions of his or her current position. Reassignment must be provided to an employee, absent undue hardship, if the employee can no longer perform the essential functions of the position he or she holds with or without the accommodation. The following conditions must exist in order to provide reassignment as a reasonable accommodation:

- (a) The individual must be an employee of the Department;
- (b) The employee can no longer perform the essential functions of his or her job because of a disability;
- (c) No other effective accommodation would enable the employee to perform the essential functions of his or her current job; or, all other possible accommodations would impose an undue hardship;
- (d) The reassignment may be made only to a funded position which is vacant; and

- (e) The full performance level of the reassigned position may not be higher than the full performance level of the position currently held.

The Department is not required to create or fund a position, nor is it required to reassign an individual from an existing position in order to create a vacancy for the employee being accommodated.

Furthermore, the employee being accommodated must be qualified for the new position. The employee is considered qualified for the new position if he or she possesses the requisite skill, experience, education and other job-related requirements of the position, and can perform the essential functions of the position with or without reasonable accommodation. If all the conditions are met for reassignment, the employee will not be required to compete for the position. If, however, the full performance level of the reassigned position is higher than the full performance level of the position currently held by the employee, then the employee must compete for the position.

With the employee's consent, reassignment may be made to a location outside of his or her commuting area. However, relocation costs will not be paid by the Department.

- 2. **Referral to authorized official.** When reassignment is sought as a reasonable accommodation, the matter shall be referred to the Office of Human Resources Management in the case of a headquarters employee, or to the departmental equivalent in field or operation offices cases. That office will:

- (a) seek input from the employee in order to search and identify vacant positions within the Department for which the employee may be qualified, with or without reasonable accommodation;
- (b) identify positions likely to be vacant over a sixty (60) day period for which the employee may be qualified; and,
- (c) consider vacant, lower-level positions for which the individual may be qualified, if unable to identify vacant positions equivalent in grade, position, pay and status of the employee's current position.

B. UNDUE HARDSHIP

The law does not require the Department to provide any and every accommodation an applicant or employee requests. The Department is only required to provide those accommodations that would allow the individual to perform the essential functions of the job, and which would not impose an undue hardship on the Department. However, if a decision denying a reasonable accommodation is based on a claim of undue hardship, the Department must demonstrate that the accommodation would cause significant difficulty or expense.

1. Accommodations that are unduly costly and require expenditure of significant sums of money are generally not required. Factors establishing hardship based on cost are:
 - (a) the nature and cost of the accommodation;
 - (b) the overall financial resources of the Department; and
 - (c) the effect on expenses and resources.
2. Accommodations that would change the fundamental nature of the office operations or unduly disrupt the operation of the office or facility are generally not required. Factors to be considered include:
 - (a) unduly disrupt the ability of other employees to do their jobs; and
 - (b) significant disruption likely to occur to the operation of the office.

If the Department determines that the requested accommodation will cause undue hardship, but that another reasonable accommodation will be effective and will not cause undue hardship, then the Department must provide that other reasonable accommodation.

C. INFORMAL DISPUTE RESOLUTION

The Department of Energy encourages individuals who have been denied requests for reasonable accommodation to avail themselves of the Department's informal dispute resolution process (including mediation). Participation in the informal resolution process is strictly voluntary.

D. OTHER COMPLAINT PROCESSES

An individual who has been denied a reasonable accommodation may choose to file an Equal Employment Opportunity (EEO) complaint of discrimination alleging a violation of Section 501 of the Rehabilitation Act. To initiate an EEO complaint, the individual must contact an EEO Counselor within 45 days of the date of the discriminatory act (denial of the request for accommodation), or within 45 days of when the individual became aware or should have become aware of the alleged discriminatory act. If a complaint is filed, the Department will conduct EEO counseling, or the parties will engage in the mediation process or other alternative dispute resolution processes. If the issue is not resolved at the informal resolution stage, the Department will provide the complainant with a Notice of Final Interview and Right to File a Formal EEO Complaint of Discrimination. Formal complaint procedures may be found at 29 C.F.R. Section 1614.106.

E. INFORMATION TRACKING

The Department shall maintain a system for tracking the processing of requests for reasonable accommodation. The Employee and Labor Relations Division (MA-353) shall have primary responsibility for maintaining this database. The tracking system will be used to evaluate the Department's performance in responding to requests for reasonable accommodation.

1. The database shall track the following information:
 - (a) the number and types of reasonable accommodations that have been requested, and whether the requests have been granted or denied;
 - (b) the occupational series, grade level, and agency component of those persons requesting accommodation;
 - (c) for each of the occupational series, the types of reasonable accommodation requested;
 - (d) by departmental component and job category, the number and types of reasonable accommodation requested;

- (e) by departmental component and job category, the number and types of reasonable accommodation that have been granted or denied;
- (f) the number and types of reasonable accommodations that related to the benefits and privileges of employment, and whether those requests have been granted or denied;
- (g) the reasons for denial of requests for reasonable accommodation;
- (h) the amount of time taken to process each request for reasonable accommodation; and
- (i) the sources of technical assistance or organizations that have been consulted when identifying possible reasonable accommodations.

2. **Duration of record keeping.** The Employee and Labor Relations Division shall maintain tracking information on reasonable accommodation requests for a period of not less than 3 years.
3. **Individual Records.** Records of individuals requesting reasonable accommodation shall be maintained for the duration of the person's employment with the Department. Records shall include any documentation of the individual's disability and need for accommodation, as well as information regarding the disposition of the request.
4. **Oversight by the Equal Employment Opportunity Commission.** The Equal Employment Opportunity Commission has the right to review all relevant records, including records of individual employees requesting reasonable accommodation, in order to evaluate the efficacy of the Department's reasonable accommodation procedures.

F. REPORTING REQUIREMENTS

Executive Order 13164 requires that the foregoing procedures for reasonable accommodation adopted by the Department of Energy be submitted to the Director of the Equal Employment Opportunity Commission, Federal Sector Programs, Office of Federal Operations, no later than July 26, 2001.

SECTION VII.

APPENDIX: REASONABLE ACCOMMODATION RESOURCES

DOE Office of Employee-Labor Management Relations Division (MA-353) Disability Program Coordinator

202-586-8515 (Voice)

202-586-7989 (TTY)

202-586-2252 (Fax)

DOE Computer Related Disability Accommodations

(Computer and telecommunications accommodations)

202-586-1342

202-586-8028

DOE Office of Civil Rights and Diversity

(for filing complaints)

202-586-2218 (Voice)

202-586-5329 (TDD)

OFFICIAL FILE

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